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Item 6 (a) of the provisional agenda
Consideration of reports: reports submitted by States parties in accordance with articles 16 and 17 of the Covenant

List of issues in relation to the sixth periodic report of Germany

Addendum

Replies of Germany to the list of issues*, **

[Date received: 6 July 2018]

* The present document is being issued without formal editing.
** The annexes to the present report are available on the Committee's web page.

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I. General information

Issue 1

1. Since its foundation in 2000, the German Institute for Human Rights has been the National Human Rights Institution on the basis of the Paris Principles (Annex to United Nations General Assembly Resolution of 20 December 1993, U.N. Doc. A/RES/48/134). Within the framework of the accreditation procedure, it was consistently confirmed that the German Institute for Human Rights fully complies with the Paris principles, in particular with regard to independence through being awarded so-called "A status".

2. In addition to this, the legal status of the German Institute for Human Rights as a registered association, which may perform its duties as a National Human Rights Institution independently and without being bound by instructions, was placed on a separate legal basis by the federal act of 16 July 2015 (Federal Law Gazette I, p. 1194). The German Institute for Human Rights continues to make autonomous decisions on the use of its financial resources as part of its tasks. In accordance with the legislation mentioned above, this is underlined by the fact that the German Institute for Human Rights is mainly financed from the budget of the German Bundestag. No representatives of public authorities have voting rights on the German Institute for Human Rights board of trustees, which appoints the members of the executive board.

3. The tasks of the German Institute for Human Rights are — in accordance with the Paris Principles — in particular in the areas of providing public information on human rights issues, academic research and publication, policy advice, education and the promotion of dialogue with the relevant human-rights bodies. This is complemented by its function as a monitoring body under the UN Convention on the Rights of Persons with Disabilities and the UN Convention on the Rights of the Child. In fulfilling these tasks, the German Institute for Human Rights works closely with state authorities at *Länder*, federal and municipal levels.

4. Also, according to the Federal Act Governing Access to Information held by the Federal Government (Freedom of Information Act), everyone has the right to access official information from the federal authorities. Many of the *Länder* have passed their own freedom of information legislation for their authorities.

5. During the reporting period from 2008 to 2016, the Federal Government was responsible for the institutional support of the German Institute for Human Rights. The institutional funding is in the form of secured basic funding from the Federal Government or, since 2016, from the German Bundestag. During this period, the Federal Government increased its institutional support from € 1,535,170.55 in 2008 to € 2,510,000 in 2016. The increase in institutional grants also allowed the German Institute for Human Rights to make increases in staffing. Since the beginning of the financial year 2016, the German Institute for Human Rights has been receiving grants from the budget of the German Bundestag. All further information can be found in the table in Annex 1.

Issue 2

6. The National Action Plan on Business and Human Rights (NAP) contains action areas for the Federal Government, the business sector and civil society.

7. An interministerial committee on business and human rights with an accompanying working group consisting of representatives from business, trade unions, civil society and various federal ministries was set up. Human rights have been made more independent and visible in the promotion of foreign trade, in particular in the export credit and investment guarantee audit procedures. The National Contact Point for the OECD Guidelines has been bolstered in terms of staff and structure. A process was initiated to identify particularly relevant risk sectors and regions and to develop sector-specific guidelines for action. To support businesses, a central NAP online information portal coherently presents the

activities of the Federal Government (www.wirtschaft-menschenrechte.de). A "NAP Helpdesk" was set up to provide initial and referral advice for businesses. The bolstering of the information and advisory capacities of diplomatic missions and other actors has begun.

8. The Federal Government expects all companies to adequately implement processes (or measures) to fulfill the corporate due diligence obligations set out in the NAP regarding respect for human rights. The implementation will be reviewed with a monitoring process starting 2018. If less than 50% of German-based companies with more than 500 employees have implemented the core elements into their corporate processes by 2020, the Federal Government will act in accordance with the coalition agreement with national legislation and promote an EU-wide regulation.

9. Whosever believes their human rights have been violated by acts carried out by a German company abroad may bring the matter to the attention of the internationally competent civil courts in Germany. The international jurisdiction of German courts for actions against companies resident in Germany may be established in such cases from Regulation EU No 1215/2012. German courts make decisions on the cases based on the substantive law applicable under the rules of international private law (in particular Regulation (EC) No. 864/2007). See Annex 2 for further information.

10. In order to show foreign claimants even more clearly which legal protection options they have before German civil courts, the Federal Government is currently working on a multilingual informational brochure in implementation of the National Action Plan on Business and Human Rights.

Issue 3

11. Human rights aspects were examined for all projects for which an investment guarantee was given in the period 2008 to 2015:

Number of projects: 652;

Number of countries: 55.

12. Human rights concerned:

- Pre-screening — screening based on Directive 2011/92 / EU for the identification of environmental risks (which may also be associated with human rights risks), concern for biodiversity values, cultural assets, indigenous peoples and projects involving relocation;
- Categorisation — based on the screening definition of project categories (A high, B medium, C low risks). Outcome: In the period of the request there were 30 A, 203 B and 419 C projects;
- Screening — benchmark: For A projects, the World Bank Group standards and all its social / human rights aspects; for B projects, national standards of the project country. If further human rights aspects were identified within the framework of the general project research and the screening they were also given consideration in screening regardless of the category (also C projects);
- Monitoring — annual reporting to the federal mandatary on A and B projects and implementation of guarantee conditions.

13. In 2017, further systematisation of the screening of human rights aspects: Extending the screening to human rights context and sector risks, International Finance Corporation Performance Standards as a benchmark for all audits, implementation of requirements from the National Action Plan for Business and Human Rights. A list of countries can be found in Annex 3.

14. No complaints have been received by the National Contact Point (NCP) for the OECD Guidelines for Multinational Enterprises concerning projects for which an investment guarantee has been given.

Issue 4

15. With the Paris Agreement and the planned reduction of global greenhouse gas emissions to zero net in the second half of this century, today's industrialised countries — and thus also the EU and Germany — must achieve the goal of greenhouse gas neutrality at an early stage. Germany's climate action policy is therefore based on the concept of extensive greenhouse gas neutrality by 2050. The Federal Government's medium-term goal is to reduce greenhouse gas emissions in Germany by at least 55 percent by 2030 compared to 1990 levels by 2030 at the latest. We now see clearly how ambitious this goal is for an industrial nation like Germany. The first step towards reducing greenhouse gas emissions by at least 40 percent by 2020 has proven difficult to achieve. The Federal Government is therefore undertaking the following measures: In implementing the climate protection plan, the Federal Government is currently drawing up a programme of measures to ensure that the climate action targets are achieved by 2030. Within this framework, a commission on growth, structural change and employment was established. The commission is to develop a roadmap by December 2018 for phasing out coal that can help meet the short, medium and long-term climate action targets. The commission will also present proposals for structural development in the regions concerned with a view to boosting growth and employment. In 2019, the Federal Government will also pass legislation to ensure compliance with the 2030 climate action targets.

16. Germany announced a contribution of 750 million euros at the first replenishment of the Green Climate Protection Fund. Of the € 750 million, € 562.5 million have so far been made available to the Green Climate Fund.

II. Issues relating to general provisions of the Covenant (arts. 1–5)

Maximum available resources (art. 2 (1))

Issue 5

(a) The levels of inequality, defined as the ratio between total income accruing to the richest decile of the population and total income of the 40 percent poorest in the population;

17. The evolution of the ratio of equivalised net income of the top decile to equivalised net income of the lowest 40%, the Palma ratio, in the last ten years present is shown in the table below:

Palma Ratio

Year	*Source:*	
	SOEP[1)]	EU-SILC[1)]
2005	1.063	-
2006	1.036	-
2007	1.057	-
2008	1.034	1.066
2009	0.995	1.070
2010	1.010	1.046
2011	1.027	1.013
2012	1.033	1.087
2013	1.059[2)]	1.122
2014	1.044	1.099
2015	1.069	1.070

Palma Ratio	
Values with consideration of owner-occupied residential property	
[1] the year in which the income was earned	
[2] break in series due to revised sampling design	
Sources: SOEP wave v33.1, EU-SILC, own calculations of the IAW.	

18. Further distribution measures can be found in the tables set out here from the German Federal Government's Report on Poverty and Wealth Indicator Table: http://www.armuts-und-reichtumsbericht.de/DE/Indikatoren/Gesellschaft/Einkommensverteilung/einkommensverteilung.html.

(b) Proportion of the public revenue that is financed through taxes;

19. Table

	Revenues				
		Including Levies			
	Total	*Total*	*Taxes*	*Net social contributions*	*Taxes in % of revenue*
Year	*1*	*2*	*3*	*4*	
2006	1 028 495	920 515	516 303	404 212	**50.2**
2007	1 080 805	967 299	563 028	404 271	**52.1**
2008	1 111 692	993 590	581 141	412 449	**52.3**
2009	1 090 918	965 822	550 207	415 615	**50.4**
2010	1 110 315	977 964	551 784	426 180	**49.7**
2011	1 182 702	1 036 781	594 526	442 255	**50.3**
2012	1 220 853	1 074 869	620 548	454 321	**50.8**
2013	1 259 033	1 111 363	646 332	465 031	**51.3**
2014	1 308 336	1 150 633	668 655	481 978	**51.1**
2015	1 354 271	1 198 826	698 008	500 818	**51.5**
2016	1 414 231	1 255 705	731 950	523 755	**51.8**
2017	1 474 566	1 315 292	767 225	548 067	**52.0**

(c) Rates of taxes levied on corporate profits, on personal incomes, and VAT (exclusive of VAT on luxury items, tobacco/alcohol or sugary drinks/snacks, and gasoline), respectively; and percentage of the total revenue from personal income taxes that are collected from the richest decile of the population;

20. The tariff burden on the profits of corporation tax and trade tax for

2008–2017: 29.83%.

21. The burden on employees with income tax and social security contributions for average single earners without children:

2006: 42.5 %, 2009: 41.2 %, 2010: 39.2 %, 2011: 39.8%, 2012: 39.8%, 2013: 39.4%, 2014: 39.5%, 2015: 39.6%, 2016: 39.7%.

22. The burden on employees with income tax and social security contributions for single-income married couples with two children and average earnings:

2006: 22.6%, 2009: 20.6%, 2010: 19.6%, 2011: 20.8%, 2012: 21.0%, 2013: 20.8%, 2014: 20.9%, 2015: 21.1%, 2016: 21.3%.

23. VAT rates 2008–2017: Standard rate 19%, reduced rate 7%.

(d) Public expenses as a percentage of the GDP and, within the total public expenses, proportion of the public budget that is dedicated to social priorities (education, food, health, water and sanitation, housing);

24. Preliminary remark: The COFOG data available to the Federal Statistical Office reaches up to the two-digit level. More detailed information is not available, so that the position "nutrition" (food) cannot be displayed. Public expenditure presented here for the area of responsibility of housing does not include funding with subsidised loans. Similarly, public expenditure is not taken into account for direct financial support to households for housing costs, as this is included in the COFOG data as "monetary social benefits". The "costs of accommodation" in the context of SGB II and SGB XII as well as housing allowances totaled around 16.8 billion euros in 2015 for example (cf. "Dritter Bericht der Bundesregierung über die Wohnungs- und Immobilienwirtschaft in Deutschland" ("Third Federal Government Report on the Housing and Real Estate Industry in Germany")) and thus represent many times the value on the basis of the COFOG data.

25. The attached tables show the expenditure for each COFOG item as a proportion of total expenditure (budget) and GDP. These results are not price adjusted.

Public expenditure by area (COFOG two-digit) as a percentage of the public budget	*2007*	*2008*	*2009*	*2010*	*2011*	*2012*	*2013*	*2014*	*2015*	*2016*
Education	9.1	9.0	9.1	9.2	9.6	9.5	9.6	9.6	9.6	9.5
Nutrition (Food)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Health	14.8	14.8	15.0	14.7	15.2	15.4	15.7	16.1	16.3	16.2
Water/sanitary facilities (wastewater management)	0.4	0.4	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3
Water / sanitary facilities (water supply)	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
Housing	1.0	0.9	0.6	0.5	0.4	0.3	0.2	0.2	0.2	0.1
Education	3.90	3.91	4.31	4.35	4.28	4.21	4.27	4.24	4.19	4.21
Nutrition	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Health	6.32	6.44	7.11	6.97	6.80	6.82	7.04	7.15	7.15	7.17
Water / sanitary facilities (wastewater management)	0.16	0.15	0.16	0.14	0.14	0.14	0.15	0.14	0.14	0.14
Water / sanitary facilities (water supply)	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03
Housing	0.43	0.38	0.30	0.22	0.16	0.11	0.09	0.07	0.07	0.06

(e) Inflation-adjusted absolute levels of spending on these social priorities.

26. Preliminary remark: A price-adjusted determination of the amount of expenditure according to COFOG has not been carried out at the Federal Statistical Office (Destatis). On the available COFOG data and the position "Nutrition" see preliminary remark on d).

Public expenditure by the state by area (COFOG two-digit) in absolute terms (EUR billion)	*2007*	*2008*	*2009*	*2010*	*2011*	*2012*	*2013*	*2014*	*2015*	*2016*
Education	98.007	100.253	105.935	112.339	115.779	116.135	120.679	124.349	127.607	132.335
Nutrition	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Health	158.914	165.057	174.999	179.782	183.720	188.042	198.885	209.648	217.545	225.324
Water / sanitary facilities (wastewater management)	3.990	3.967	3.855	3.717	3.815	3.882	4.156	4.222	4.204	4.428
Water / sanitary facilities (water supply)	0.798	0.793	0.718	0.731	0.771	0.811	0.837	0.843	0.860	0.900
Housing	10.898	9.700	7.427	5.661	4.380	3.107	2.486	2.133	2.029	1.957

Non-discrimination (art. 2 (2))

Issue 6

27. After a start-up phase and according to provisional resources, an evaluation of the Anti-Discrimination Agency was carried out at the beginning of 2011, which revealed additional needs, in particular for staff. As a result, since 2011 the Federal Government has steadily increased the budget and staffing for the Anti-Discrimination Agency. For example, in 2011 a budget of 2.64 million euros was available to the Anti-Discrimination Agency; for the current year of 2018, 4.426 million euros have been planned. In 2011, the Anti-Discrimination Agency had 17 staff positions, and in the current financial year there are already 27 staff positions. This clearly demonstrates the Federal Government's efforts to adequately equip the Anti-Discrimination Agency with resources for it to carry out its tasks.

28. The Federal Anti-Discrimination Agency supports persons who contact them in asserting their rights regarding protection against discrimination in an independent manner. In particular, it may provide information about claims and the possibilities of legal action in the context of statutory regulations for the protection against discrimination. It can organise advice from other sources and seek to reach an amicable settlement between the parties involved.

29. To the extent that the competence of a Federal Government Commissioner or the German Bundestag is not affected, the Federal Anti-Discrimination Agency carries out public relations tasks and implements measures to prevent discrimination and makes recommendations for eliminating and avoiding discrimination in accordance with the General Equal Treatment Act (AGG) and academic research into discrimination.

Issue 7

30. Under the General Equal Treatment Act, differing treatment of individuals on grounds of religion or beliefs is permissible under certain conditions, with a view to the right of self-determination of the church or if this constitutes a legitimate professional requirement given the nature of the job. The prohibition of discrimination on the grounds of religion or beliefs shall not affect the right of religious communities, their associated institutions (regardless of their legal form) or associations that have as their task the

collective promotion of a religion or belief system to require their employees to behave in a loyal and sincere manner in accordance with their respective self-image.

31. According to the case law of the Federal Constitutional Court (BVerfG), the churches themselves can determine whether they require applicants for a specific position to belong to a particular religion. This right of self-determination of the churches valid in the context of general laws is subject to judicial review for plausibility and arbitrariness.

32. However, in the "Egenberger" case C-414/16 of 17 April 2018 on the question of whether an applicant for a position to be filled in the church must belong to a particular religion, the European Court of Justice ruled that the right to autonomy of the churches must be weighed against with the right of employees to non-discrimination and that the decision must be subject to judicial review. The requirements set by a church organisation would therefore have to be objective and proportionate in light of its ethos. As far as possible, national law must be interpreted in conformity with EU law. In the light of the judgment of the ECJ in the "Egenberger" case, the Federal Labour Court (BAG) has yet to decide on the compensation claim of the plaintiff Egenberger.

33. According to the case law of the Federal Constitutional Court, the constitutionally enshrined right of self-determination grants the churches the right to impose certain demands on the professional and personal conduct of their employees (loyalty obligations) in accordance with to their self-image. This especially applies to employees who are members of the church in question.

34. At the moment, case "IR/JQ" C-68/17 is pending before the European Court of Justice, which will comment on the question of the scope of the loyalty obligations arising from church employment relationships. It remains to be seen how the ECJ judges this question.

Issue 8

35. Various analyses of the operation and diagnosis statistics of the Federal Statistical Office, accompanying surveys of hospitals and the study "Zur Aktualität kosmetischer Operationen "uneindeutiger" Genitalien im Kindesalter" (Concerning the current state of cosmetic operations of "ambiguous" genitalia in childhood) funded by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth and prepared by Dr. Ulrike Klöppel and Professor Sabine Sabisch have shown that no significant change in the corresponding operations was visible over the period from 2005 to 2014 under consideration.

36. With regard to the aforementioned analyses and surveys, it should be noted that there is no uniform medical definition of intersexuality. Different definitions are in use.

37. The state of knowledge concerning the support and counselling needs of intersex children and their relatives has been substantiated through scientific surveys, studies and a public exchange of views among experts. The results are available on the website of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth. An online information portal is currently being developed that provides information on the subject and on advice and support services throughout Germany. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth provided support for the flyer „Weiblich? — Männlich? — Ihr intergeschlechtliches Kind" produced by the NGO Queer Leben e. V. — Männlich? The flyer is intended to inform relatives of intersex children, as well as medical and psychological specialists and other professional groups such as obstetricians, educators and family counsellors about where support and advice can be found, as well as a guideline for counselling centres for inter- and trans-persons and their relatives via the federal pro familia association.

38. The provisions of Section 22 (3) of the Civil Status Act (PStG') entered into force in November 2013. Thus, the possibility was created to certify the birth status of a child without stating a gender, if the child cannot be assigned to the female or male gender. The impact of the new regulation on the situation of intersex infants and children is not known. The German Institute for Human Rights collected data as part of its report on gender diversity legislation commissioned by the Federal Ministry for Family Affairs, Senior

Citizens, Women and Youth. According to the data, no gender information was entered on 12 birth certificates in all of Germany in the period from November 2013 to November 2015.

39. In June 2017, the Federal Cabinet adopted a national action plan against racism, which was expanded to include the topics of homophobia and transphobia. Further information are in the Annex 4.

40. Germany has also ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), which obliges the contracting states to protect the gender identity of victims. The convention entered into force on 1 February 2018.

41. In the framework of the criminal police reporting service on politically motivated crimes, criminal police data on hate crimes are collected annually into a preliminary statistics by the Federal Criminal Police Office. Since 2001, crimes committed on the basis of sexual orientation/identity have been collected separately.

42. Starting in 2018, a new statistical survey will also compile judicial data on cases of hate crimes at the federal level. The cases of crimes committed on the basis of sexual orientation/identity will be set down separately.

43. According to the provisions of the General Equal Treatment Act, disadvantages based on gender or sexual identity are prohibited in labour law and civil law.

44. Since 2015, twelve projects (see Annex 4) with a total volume of €1,518,496.61 have been funded or planned for the coming years as part of the cross-sectional policy work on same-sex lifestyles and gender diversity.

45. Through the federal programme entitled "Live Democracy!" ("Demokratie leben!") a further twelve measures (see Annex 4) with a total volume of €7,008,669.53 will be funded that contribute to the acceptance of same-sex, trans- and intersex lifestyles, help to reduce prejudices against these groups and are directed against discrimination and violence on the basis of gender or gender identity and sexual orientation.

Equality between men and women (art. 3)

Issue 9

46. The Act on the Equal Participation of Women and Men in Executive Positions in the Private Sector and Public Service stipulates a fixed gender quota of 30% from 1 January 2016 for newly elected supervisory board positions in listed companies with parity co-determination. Companies which are listed or which are subject to corporate co-determination are required to set targets for the percentage of women on the supervisory board, the management board and in the two highest levels of management beneath the management board. In addition, the Federal Act on Gender Equality was amended to provide for up to three deputies to the equal opportunities officers in large agencies and to introduce a gender equality index for the supreme federal authorities. The new version of the Appointments to Federal Bodies Act states that, in the case of supervisory bodies where the Federation is entitled to at least three seats, a gender quota of 30% applies to the nomination of the Federation's representatives from 2016, rising to 50% from 2018. In the case of key bodies where the Federation can only appoint two members, the general quota must also be met. The proportion of women on the supervisory boards of companies subject to the fixed quota is 31.9% (2018), and 6.1% (2015) in the case of the executive boards of all companies subject to the Act. In the Federal Administration as a whole, women hold 33% of all leadership positions (2015). The proportion of women among the members of bodies to be appointed by the Federation is 40.9% (2015), and 41.9% in the case of key bodies (2015).

47. See Annex 5 for further information on new provisions of the Federal Act on Gender Equality (2015) that facilitate the redistribution of care responsibilities within the family.

III. Issues relating to the specific provisions of the Covenant (arts. 6–15)

Right to work (art. 6)

Issue 10

(a) To ensure that all employers with an average of at least 20 employees a year employ at least five percent of persons with severe disabilities among their workforce, as required by law, particularly in the private sector;

48. Employers who fail to employ the required number of persons with severe disabilities have to pay a compensatory levy per unfilled mandatory job for persons with severe disabilities (Section 160 of Book IX of the Social Code). All employers are subject to the reporting process established by Section 163 of Book IX of the Social Code.

49. In addition, the measures which have been introduced to raise employers' awareness and provide them with information and advice (in particular "Inklusion gelingt" (Inclusion Works) and "Wirtschaft inklusiv" (Inclusive Business), see the sixth states parties report (E/C.12/DEU/6, Annex 5) are helping to persuade more employers to support the vocational training and employment of persons with disabilities and are assisting them in fulfilling their obligation to employ persons with severe disabilities.

(b) To make the labour market more inclusive for persons with disabilities, in particular with regard to inclusive vocational training and workplace accessibility;

50. Please see the sixth states parties report (E/C.12/DEU/6), paragraphs 47–53, and Annex 5 to the sixth States parties report. In addition, mention should be made of "Inklusionsinitiative II — AlleImBetrieb" (Inclusion Initiative II — EveryoneInTheWorkplace), via which 150 million euros is being made available to create additional jobs and vocational training places in inclusive companies under Section 215 of Book IX of the Social Code.

(c) To improve the working conditions of workers with disabilities in sheltered workshops and to increase the transition rate from sheltered workshop activities to the general labour market. Please also provide statistical data, disaggregated by sex, type of disabilities and sector, as applicable, on the number of persons with severe disabilities to be employed under the quota and the percentage of persons with disabilities who found employment.

51. The vocational orientation measures for young people with disabilities already seek to avoid transitions to sheltered workshops in the first place, wherever possible, and to open up alternatives, e.g. through supported employment.

52. Numerous improvements have been implemented for workshop employees via the Federal Participation Act:

- The employment promotion benefit has been doubled;
- Wages are deducted from basic income support benefits to a lesser extent than was previously the case;
- The rights of workshop councils have been strengthened, especially through the introduction of a right to co-determination on particularly important matters;
- Women's officers have been introduced in all sheltered workshops;
- Options have been created for persons with disabilities who have previously only been able to participate in working life in a sheltered workshop, via the introduction of other service providers and the "Budget for Employment". The Budget for Employment allows support to be provided for transitions to the general labour

market in the form of a large, long-term labour costs subsidy, as well as guidance and support in the workplace.

53. The support for inclusive workplaces under Section 215 of Book IX of the Social Code (see the answer to 20 b) also aims to facilitate the transition of workshop employees to the general labour market. The market position of these workplaces is boosted by the possibility of the preferential award of public contracts to inclusive companies (Section 224 (2) of Book IX of the Social Code).

54. The obligation to employ persons with severe disabilities enshrined in Section 154 of Book IX of the Social Code applies to vacant positions. In certain circumstances, it is permitted for one employee with severe disabilities to count towards up to three mandatory jobs (Section 159 of Book IX of the Social Code). Consequently, information about the mandatory employment system can only be provided in terms of jobs, not persons.

55. In 2016, employers were required to fill a total of 1,115,615 mandatory jobs, of which 274,466 were not filled. For information on mandatory jobs and employment quotas, disaggregated by sector, see Annex 6, Table 1.

56. In 2016, 1,051,492 persons with severe disabilities or persons with equivalent status were employed by employers subject to mandatory employment. Of these persons, 576,408 were men and 475,084 were women; see also Annex 6, Table 2.

57. No statistics are collected on employees' type of disabilities. The only data source is the reporting process under Section 163 (2) of Book IX of the Social Code. This process does collect data about the type of disability, as that would require employees to give their employer information about their type of disability. This is not appropriate for data protection reasons.

Issue 11

58. The Act Amending the Act on Temporary Agency Work and Other Acts (Federal Law Gazette I 2017, p. 257), which entered into force on 1 April 2017, contains a raft of measures to strengthen the labour and social protection for temporary workers. In particular, temporary workers receive, in principle, the same pay as permanent staff for the same work after an assignment duration of nine months, at the latest (equal pay). In future, it will only be possible to diverge from the principle of equal pay for longer than nine months if a supplementary collective agreement applies which contains certain social safeguards. Notably, a gradual increase in pay must kick in already after six weeks, and after 15 months a level of pay must be reached which is specified in the collective agreement as being equal to pay in the sector of assignment. Other key measures include an 18-month maximum assignment duration, in principle, with the option of diverging from this in collective agreements for the sector of assignment, and a ban on using temporary workers as strike-breakers, as well as legal clarification on the inclusion of temporary workers in the thresholds under the works councils act and in corporate co-determination. In addition, new legal obligations of prior disclosure of temporary employment were established, which enhance transparency and legal certainty for all sides and prevents the subsequent use of "stockpiled" permits to supply temporary staff in cases where temporary agency work is disguised as contract for services.

59. Germany's Act on Temporary Agency Work, including the new amendments, applies to all temporary workers employed in Germany, meaning that migrant workers employed here benefit in the same way as national workers. The Act's provisions make no distinction based on the nationality or origin of the temporary worker or on whether the temporary work agency is registered abroad. The cross-border supply of temporary workers to Germany from countries outside the European Economic Area (EEA) is not possible, as only temporary work agencies registered within the EEA can receive the necessary permit from the German employment service to supply temporary staff.

60. Temporary work agencies need a permit issued by the Federal Employment Agency. Violations of the new provisions constitute administrative offences, and fines of up to 500,000 euros can be imposed. The public employment service (the Federal Employment

Agency) and the Customs Administration are responsible for detecting violations and imposing penalties. In addition, German and foreign temporary work agencies are subject to regular and ad hoc checks by the Federal Employment Agency. The consequences for a temporary work agency if a violation of the law is discovered are proportionate to the nature of the violation, and can include the withdrawal of the necessary permit to supply temporary staff. In addition, the law stipulates that, in the case of violations of the new maximum assignment duration and the new disclosure obligations, the employment relationship of the temporary agency worker transfers to the user company.

61. Of the around 970,000 temporary workers in jobs with compulsory social insurance coverage in June 2017, around 700,000 were men and around 270,000 were women. Of all temporary employment relationships which existed on the reference date of 30 June 2017, the person had been employed for less than six months in a good third of cases, between six months and a year in a good sixth of cases, and for longer than one year already in almost half of all cases. (*Source*: Federal Employment Agency)

Right to just and favourable conditions of work (art. 7)

Issue 12

62. Making distinctions in minimum wages based on specific family circumstances or tailoring minimum wages to the needs of an average-sized family are approaches which do not reflect the conventions and conditions in the Federal Republic of Germany. In the German system, minimum wages aim to guarantee a minimum level of protection to workers. In Germany, Article 9 (3) of the Basic Law (the constitution) tasks the parties to collective agreements with ensuring, by concluding collective agreements, that workers receive an appropriate share of a company's profits, and so also ensuring that the needs of workers' family members are met, where applicable. The German social system also provides for additional benefits for family members if their needs are not met (Books II and XII of the Social Code).

63. The level of the general minimum wage is adjusted every two years, based on a proposal from the Minimum Wage Commission. The Commission is composed of three representatives each from employer and employee umbrella federations, a chairperson, and two academics with no right to vote. The Minimum Wage Act sets out criteria for the Commission's proposal: adequate minimum protection for workers, fair and functioning competitive conditions, and effects on employment. The economic situation and productivity must also be taken into consideration. The Minimum Wage Commission's proposal tracks, with a lag, trends in collectively agreed wages.

64. The Federal Government does not yet have reliable data on the exact rate of compliance with the minimum wage. For further information see Annex 7.

65. The German Institute for Economic Research (DIW) concluded in a recent report, using calculations based on the Socio-Economic Panel (SOEP), that in the first six months of 2016 the contractual hourly wage of around 1.8 million entitled workers was still below the statutory limit of 8.50 euros gross per hour. People in marginal employment, above all, were particularly affected.

66. These figures are significantly higher than the Federal Statistical Office's calculations, which were used by the Minimum Wage Commission. However, the DIW itself draws attention to the uncertainties of survey data. In addition, participants were not asked their hourly wage; this was calculated on the basis of information on working time.

67. The results of the customs authorities' checks suggest that, in cases of non-compliance, incorrect recording of working times and breaks, in particular, plays a major role.

Issue 13

68. The Act on Changes Relating to Marginal Employment of 5 December 2012 introduced compulsory insurance in the statutory pension insurance system, in principle, for marginal employment taken up from 2013. This also applies to domestic workers in marginal employment (2016: around 300,000). Unless they request exemption from insurance, compulsorily insured people in marginal employment gain entitlement to the full spectrum of pension benefits, which include reduced earning capacity pensions, for example. Since the introduction of compulsory insurance coverage, a significantly higher proportion of people in marginal employment have chosen to be insured by the statutory pension insurance system and not to request exemption. This also applies to domestic workers in marginal employment.

69. The statutory minimum wage applies to domestic workers, including foreign caregivers in private households, even if they are only posted to Germany for a short period. Compliance with the statutory minimum wage is monitored by the customs authorities, with due respect for the constitutional requirements enshrined in Article 13 of the Basic Law. In Germany, domestic workers, as employees, are among those covered by statutory accident insurance under Section 2 (1) number 1 of Book VII of the Social Code. Under Section 14 (1), first sentence, of Book VII of the Social Code, the occupational accident insurance funds must use all appropriate means to prevent occupational accidents, occupational diseases and occupational health hazards, and to ensure that there are adequate first aid facilities; under Section 14 (1), second sentence, of Book VII of the Social Code, they must also investigate the causes of occupational dangers to life and health. If domestic workers suffer an occupational accident or contract an occupational disease, they are protected by Sections 26 et seq. of Book VII of the Social Code. These provisions require the statutory accident insurance system to use all appropriate means to restore domestic workers' health and working capacity and to compensate them or their surviving dependants by means of monetary benefits.

70. Compliance with German federal legal provisions to protect domestic workers in their employment relationship is ensured by the individual enforcement options for the various provisions. The fact that domestic workers are covered by general labour law ensures that they have access to complaint mechanisms.

71. For example, domestic workers can contact the competent supervisory authority to request that the authority orders measures, under Section 17 (2) of the Working Time Act, to curb violations of statutory provisions relating to working time.

72. In the event of a violation of the statutory provisions relating to the minimum wage, domestic workers can submit a complaint to the customs authorities, which are responsible for monitoring compliance with minimum wages (Section 14 of the Minimum Wage Act).

73. In the event of a violation of the ban on discrimination enshrined in the General Equal Treatment Act, employed domestic workers can submit a complaint to an agency specified by the employer or contact the Federal Anti-Discrimination Agency (Section 13 (1) of the General Equal Treatment Act).

74. In addition, employed domestic workers can — like all other employees — bring claims arising from the employment relationship before the courts responsible for labour matters.

Issue 14

75. Under the Safety and Health at Work Act, employers are required to take the necessary measures to promote safety and health at work and, in particular, to assess the risks involved in the employees' work. This also applies in the agricultural and construction sectors. The relevant accident prevention regulations set out further concrete measures for sectors such as construction work (German Statutory Accident Insurance Regulation 38) or livestock farming (Safety and Health at Work Regulation 4.1).

76. The occupational accident insurance funds develop a wide range of prevention-related activities and measures. See Annex 8 for further information.

77. Compliance with provisions on safety and health at work is monitored by the competent authorities of the *Länder* (federal states) and the occupational accident insurance funds. In addition, cooperation between the Federation, the *Länder* and the occupational accident insurance funds is being strengthened within the framework of the Joint German Health and Safety Initiative (GDA), with the aim of achieving effective and efficient inspection activities on the basis of coordinated instruments and uniform monitoring principles (e.g. the GDA guidelines on the planning and implementation of construction projects).

78. Following the entry into force of the general ban on the production and use of asbestos in Germany in October 1993, the safe handling of asbestos is comprehensively regulated by law in Germany and is established practice in all affected sectors and supervisory authorities. The workers who still deal with asbestos in Germany are mainly in the construction sector, working on asbestos-containing buildings constructed prior to the ban. It is estimated that 20% of all buildings in Germany still include construction products which contain asbestos; these generally only pose a risk in the event of improper mechanical processing. In 2017, the Federal Government held a National Asbestos Dialogue with experts from all relevant associations and organisations (construction clients, the social partners, occupational accident insurance funds, supervisory authorities, representatives of the planning profession, architects, experts). See Annex 8 for further information.

Issue 15

79. Section 41 (3) of the (federal) Prison Act stipulates that prisoners' consent is required if they are to work in private companies. However, the *Länder* (federal states) have not included this requirement in their Prison Acts. Consequently, it is possible in practice in Germany for prisoners to be required, without their consent, to work for private companies within public prisons. That said, in its decision of 1 July 1998, the Federal Constitutional Court did not criticise the obligation to work for private businesses within or outside the prison, provided that the work is performed under the public-law responsibility of the penal authorities. This is ensured by the fact that the prisoners' duty to work exists only in relation to the prison, not the private employer, and so compliance is overseen by the prison. Additionally, in cases where work is carried out for private companies, the companies merely bring the work materials into the prisons; the prisoners are supervised solely by the prison staff. Work while in prison is an important tool for integration and part of the resocialisation strategy. In the case of young people, work while in a young offenders' institution is an important educational tool.

80. In 2016, almost 39,000 prisoners were employed in Germany, which represents an employment rate of just under 62%. Around 8,500 of them were employed in private companies' workshops inside prison premises. The average working time was somewhat over six hours per working day. The companies pay the prisons the customary local wage under collective agreements for the performance of the work. The level of the remuneration passed on to the prisoners depends on the provisions in the individual Prison Acts of the *Länder*. In principle, it is 9% of the reference value under Section 18 of Book IV of the Social Code. For 2016, the reference value was set at 36,187 euros. The average annual remuneration granted to the prisoners is thus 3,256.83 euros. See Annex 9 for further information.

Trade union rights (art. 8)

Issue 16

81. The public rely on the state having the ability to function everywhere and at all times. Civil servants — a much smaller group than public employees without civil servant status,

who do have the right to strike — play a special role in this context. Civil servants stand in a special relationship of service and loyalty to the state, and their only duty is to the public interest, irrespective of the interests of individuals or groups. Civil servants also act as guarantors of the rule of law, the protection of fundamental rights, and democracy.

82. Civil servants' rights and responsibilities are carefully balanced by the constitution. Civil servants do "lack" the right to strike, but in return the constitutionally enshrined maintenance principle and the lifetime employment principle require their employer to provide adequately for the welfare of every civil servant throughout his or her lifetime. This right to maintenance, which has equivalent status to a fundamental right, is enforceable before the courts. In addition, civil servants have the right to form trade unions and to participate in legislative processes, via their umbrella organisations, if regulations relating to their professional group are to be adopted.

83. The permanent civil service is an integrated system which would be lose its purpose without the strike ban. Its purpose is to ensure that a group of public servants are always available to the state, enabling it to fulfil its functions reliably and to schedule.

84. The Federal Constitutional Court has issued its decision on the question of the strike ban for teachers with civil servant status, on the basis of the oral hearing held on 17 January 2018. The judgment was delivered on 12 June 2018. The Federal Constitutional Court has declared that the strike ban under the civil service law is compatible with the Basic Law (German constitution) and the European Convention on Human Rights. The strike ban for this group thus remains in place.

Social security (art. 9)

Issue 17

85. The procedure for assessing basic needs and calculating the standard rates for meeting these basic needs, which are then used to calculate the standard rates for securing the necessary subsistence level, was examined by the Federal Constitutional Court and confirmed as reasonable and constitutional in its ruling of 23 July 2014. This also applies to the annual increase in the rates for meeting basic needs. The allowance to meet basic needs is part of the measures to secure the socio-cultural subsistence level, together with the other benefits already mentioned in the report, which also include benefits for health insurance and long-term care insurance coverage. It is provided as a cash benefit for the individual's use.

86. Consequently, the calculations for the assessment of basic needs as of 1 January 2017, based on the 2013 Sample Survey of Household Income and Expenditure, generally used the same method as the assessment carried out on the basis of the 2008 Sample Survey. However, changes were made in response to the Federal Constitutional Court's criticism of how transport expenditure was calculated and of the excessively high deductions for alcoholic drinks and tobacco in the standard rate for young people's basic needs. Based on recent studies on the tobacco and alcohol consumption of adolescents and young adults produced by the Federal Centre for Health Education, lower expenditure (not relevant for the standard rate) on tobacco and alcohol was assumed than for adults in the calculation of the standard rate for young people's basic needs. With regard to transport expenditure, the car users identified in the special analysis of the Sample Survey were granted equally high costs (relevant for the standard rate) for local public transport as people who do not use a car. Both of these changes tend to increase the rates for meeting basic needs.

87. A review of the assessment method and the rates for meeting basic needs is carried out in the framework of every re-assessment of basic needs, which takes place every five years. In addition, the rates for meeting basic needs are adjusted with effect from 1 January each year in line with price and wage trends, to ensure that the socio-cultural subsistence level is secured at all times, including by this benefit.

Protection of the family, mothers and children (art. 10)

Issue 18

[510/612/511]

88. The law only suspended family reunification for persons entitled to subsidiary protection, and did not suspend family reunification in Germany in general; between the start of 2015 and September 2017, Germany admitted 110,000 people alone for the purpose of family reunification with Syrian and Iraqi asylees and refugees under the Geneva Convention.

89. Due to the major influx of persons in search for protection in 2015 and 2016 and the simultaneously high acceptance rate of asylum applications, it was impossible for the Federal Government to tell how many people could be expected to come to the Federal Republic of Germany on the basis of family reunification applications in addition to the over 1.3 million people who had already entered the country in 2015 and 2016. In the interests of the reception and integration systems in place in the Federal Republic of Germany, family reunification was initially suspended for the families of persons entitled to subsidiary protection for a period of two years given the exceptional situation Germany was facing. For further information see Annex 10.

90. With the Act of 8 March 2018, family reunification for persons entitled to subsidiary protection was further suspended until 31 July 2018, and from 1 August 2018 the rule is that the reunification of close relatives of persons entitled to subsidiary protection can be permitted for humanitarian reasons, with numbers capped at 1,000 persons per month. The specific details are to be set down in a federal law. The bill was adopted by the Federal Cabinet on 8 May 2018 and is currently going through the parliamentary procedure.

91. The Federal Government cannot confirm the statement that an increased number of applications for family reunification have been denied on the grounds of insufficient means of subsistence or housing.

92. Notwithstanding the above, the legal situation in the Federal Republic of Germany is such that sometimes mandatory exceptions are made regarding the requirement to furnish proof of secure means of subsistence and the availability of adequate housing. This is particularly true for admissions within the context of resettlement, if the individual is granted the right to asylum or qualifies as a refugee, or in future it will also again be the case for individuals granted subsidiary protection.

93. The Federal Government meets its obligations under the Dublin Regulation and to this end works closely with the authorities in Greece to ensure transfers can take place swiftly and in an orderly fashion. This applies also and in particular for family members for whom Germany is responsible. In solidarity with Greece and the individuals concerned, the Federal Government also agrees to the transfer of individuals for whom Greece has assumed responsibility as a result of the long waiting times. Further to this, with some 40 professionals regularly on site, Germany sends more national experts than all other Member States to Greece for EASO operations to support the local authorities in Greece in the fulfilment of their duties. Furthermore, to relieve the burden on Greece, Germany has accepted approximately 5,400 asylum-seekers as part of the EU relocation scheme — again more than any other MS.

Right to adequate standard of living (art. 11)

Issue 19

94. Initial analyses indicate that the introduction of the statutory minimum wage in 2015 has had a positive impact, particularly in the area of marginal employment (i.e. mini-jobs). In addition to numerous cases of sometimes significant wage increases among people in the lowest labour income bracket (including 2.2 million mini-jobs), many mini-jobs were

transformed into jobs subject to compulsory social insurance. See Annex 11 for further information.

95. Social protection for people in marginal employment had already been improved beforehand with the general introduction of compulsory pension insurance payments for people in mini-jobs with effect from 1 January 2013, with a change from purely optional membership of the pension insurance system (opt-in) to mandatory insurance with an opt-out option.

96. The Federal Cabinet agreed to the draft law for further development of the law regarding part-time employment. Termed "bridging part-time", the new rules are in parliamentary procedure. They will give workers the right to part-time work for a limited period and are designed to prevent workers from having to remain in part-time employment involuntarily. See Annex 11 for further information.

97. To improve the income situation of family households with children, a number of means-tested cash benefits have been increased considerably: the child supplement (*Kinderzuschlag*) is a benefit for low-income families and has been increased several times in recent years. As a result, an estimated 100,000 children have been able to change from the basic support system to the child supplement system. The maintenance advance (*Unterhaltsvorschuss*) and the tax credit for single parents are also in place to stabilise the economic situation of single parents.

98. Complementing this, resources from the Fund for European Aid to the Most Deprived (FEAD) are used to help people in Germany who are affected by poverty and have insufficient or no access to the counselling and support services in the regular assistance system. One important target group in this context are children of particularly disadvantaged, newly arrived EU citizens in pre-school age. With the aid of the FEAD, they are to be introduced to early education and social care services.

99. In 2017, on average 6.1 million people were entitled to standard benefits. See Annex 11 for further information.

100. Further to this, at the end of 2016 around 1.16 million people were eligible for social assistance under Chapter 3 (cost-of-living assistance) and Chapter 4 (basic income support in old age and in the event of reduced earning capacity) of Book XII of the Social Code. Due to the increase in housing benefit and the pronounced pension adjustment in 2016, the number of aforementioned recipients of social assistance was slightly down on 2015 figures (end of 2015: 1.18 million benefit recipients).

101. Housing benefit is paid so that lower-income households above the basic support threshold can cover the costs of adequate and family-oriented accommodation. As a result of the housing benefit reform which was introduced on 1 January 2016, the number of households in receipt of housing benefit rose from 460,080 at the end of 2015 to 631,481 at the end of 2016. See Annex 11 for further information.

102. See Annex 11 with regard to the education package.

103. Reliable studies on the impact of the minimum wage are not yet available to the Federal Government. An evaluation of the Act is stipulated by law for 2020.

104. We do not have information on the rate of uptake. The number of people below the age of 25 under Book II is counted for estimation purposes. However, this figure is not suitable for calculating the rate of uptake, as this group of people is not to be equated with the group of potential persons entitled to receive benefits under Book II of the Social Code.

Issue 20

105. In its communication of 29 November 2017 on the future of food and farming, the European Commission addresses the global implications and linkages of the CAP. The Commission seeks coherent action among the various policies in line with the 2030 Agenda. According to the Commission, the objectives of development cooperation must be taken into account in policies that affect developing countries. In this regard, the CAP is and will

continue to be coherent with the EU development policy, which recognises the important role sustainable agriculture plays for poverty eradication and sustained progress in developing countries.

106. This is also helped by the EU's leading role in negotiations in the World Trade Organisation (WTO) where it advocates strict disciplines on trade-distorting forms of support.

107. Germany supports this position and is committed to continuing the policy of the market orientation of the CAP and strict disciplines on trade-distorting forms of support — also within the context of the WTO. Germany is the only EU Member State that does not apply coupled payments. See Annex 12 for further information.

Issue 21

108. The promotion of social housing in Germany aims to provide housing for lower-income households and people who are unable to secure adequate housing on their own without assistance.

109. Social rental accommodation is constructed by private investors, municipal housing companies and housing associations. These receive loans on preferential terms or grants and make accommodation available to authorised individuals at reduced rates.

110. In Germany, responsibility for the promotion of social housing lies with the *Länder*. Their funding programmes differ depending on the situation on the housing market and on policy priorities. Support is given to the creation of residential accommodation through new construction or the purchase of properties, and to the modernisation of existing residential property for the purpose of the provision of social housing. Furthermore, home ownership is also supported for certain social groups.

111. There were approximately 1.33 million social rental apartments in Germany in 2015. See table in Annex 13 for further information.

112. As full responsibility for the promotion of social housing was transferred to the 16 *Länder* 2006, the Federal Government does not have any information of its own for the question posed above and there is also no legal basis for the collection of such data.

113. The Federal Ministry for Labour and Social Affairs surveyed the *Länder* and the municipal central organisations (Association of German Cities, German Association of Towns and Municipalities and the Association of German Counties). While some municipalities do process the data systematically, a uniform method is not applied — also due to different framework conditions under state law — and, consequently, the data are not comparable. The offices responsible generally do not keep statistics on the history. Due to the legal situation regarding the authorised group of persons, the focus of the offices responsible is generally on households and not on individuals.

114. Therefore only very general statements can be made on the basis of the data available. Currently, there is a general lack of sufficient publicly-subsidised and affordable privately financed housing for home-seeking households on a low income, and thereby eligible households. The social housing obligations for many subsidised apartments have already expired and the total number of such apartments continues to decline. As a result, the waiting period has increased steadily in recent years and is often particularly high for single-person households and households with four or more people. The market for privately financed housing is generally not an alternative given the increase in rental prices in this area. The *Länder* and the municipalities are already taking action to counter this development. In addition, in the coalition agreement the ruling parties have also agreed to make at least €2 billion available for social housing in the years 2020/2021.

115. The available data and information on the lack of permanent accommodation, including reasons for and the extent of the lack of permanent accommodation in Germany, are presented systematically in reports on poverty and wealth. The Fifth Poverty and Wealth Report was published in April 2017.

116. Currently the Federal Government is examining ways to introduce nationally standardised statistics on the lack of permanent accommodation. For more information see Annex 13.

117. The report on the scientific evaluation of the four innovation projects was published, for example, on the website of the German Youth Institute: Beierle, Sarah (2017): Praxisbericht zur Projektarbeit mit Straßenjugendlichen. Erkenntnisse aus den Modellprojekten des Innovationsfonds (des Kinder- und Jugendplans) im Bereich Jugendsozialarbeit (2014–2016). Halle/Saale. (Field report on project work with street youth. Findings from the pilot projects of the innovation fund (children and youth plan) in the area of youth social work (2014–2016)). For more information see Annex 13.

118. Under regulatory law, the municipalities in Germany are obliged to eliminate homelessness at least by providing temporary but decent shelter. This ensures the minimum emergency provision of housing.

119. Anyone in distress who is unable to cope on his/her own is legally entitled to comprehensive support and assistance. The existing minimum protection system with social assistance under Book XII of the Social Code and basic income support for job-seekers under Book II of the Social Code offers people in need of assistance protection against poverty.

120. In addition to the financial support under Book II and Book XII, Book XII also contains provisions for individual assistance for particular needs. For people without a permanent accommodation, this particularly comprises advice and personal support, assistance in getting accommodation, measures to enter the job market and help to cope in everyday life.

121. Within the framework of the Fund for European Aid to the Most Deprived (FEAD), existing services under the regular system of assistance have been opened to people without a permanent accommodation and people at risk of not having a permanent accommodation since 2016. Of the roughly 15,000 people already reached in this target group, it has been possible to enable around 81% to avail of at least one service provided by the local/regional system of assistance.

122. The "Construction and Housing" action area of the Federal Government's National Action Plan (NAP 2.0) for the implementation of the UN Convention on the Rights of Persons with Disabilities contains provisions for the creation of greater accessibility. See Annex 13 for further information.

Right to physical and mental health (art. 12)

Issue 22

123. EU citizens who are entitled to freedom of movement, particularly employees, generally fall within the scope of the statutory health insurance system and, in accordance with the provisions of Book V of the Social Code, have access through their health insurance to coverage in the event of illness.

124. In the case of EU citizens who are not entitled to freedom of movement, for a period of up to one month the competent social assistance agency will, in principle, provide health services which are required to treat acute illnesses and pain. See Annex 14 for further information

125. Under the provisions of the Asylum-Seekers Benefits Act (*Asylbewerberleistungsgesetz*), foreign nationals who are, in reality, living in the Federal Republic of Germany, particularly also asylum-seekers and persons obligated to leave the country, must be granted, inter alia, the necessary medical and dental attention to treat acute illnesses and pain, including the provision of medicinal products and bandages and dressings, and other services which are required for convalescence, recovery or relief of illnesses or the consequences of illnesses. See Annex 14 for further information.

126. Overall this ensures that even individuals who are not permanently entitled to social benefits in Germany receive access to existing healthcare systems and facilities on a case-by-case basis, particularly in emergencies and in other cases of hardship, as required under the ICESCR.

127. The obligation under residence law of public bodies to notify the authorities responsible for enforcing the Residence Act (*Aufenthaltsgesetz*) gives the latter the necessary informational means to take action against illegal entry and illegal residence and to put an end to illegal residence in the Federal Republic of Germany. These obligations also aim to ensure that the authorities put an end to illegal residency whereby people live in Germany under difficult circumstances.

128. At the same time, distinctions according to individual situations in life may — by way of exception — be taken into consideration with regard to the disclosure of information — e.g. for reasons of medical confidentiality — and are also considered in German law. See Annex 14 for further information.

Issue 23

129. Germany advocates access to safe, effective and low-cost medicinal products, which is why the Federal Government is involved in a number of different international initiatives that enable access to these medicinal products in developing countries. The Federal Government is of the opinion that a comprehensive approach is needed to resolve the problem of the supply of medicinal products. This also includes the general strengthening of health systems and health structures and the safe sale and controlled distribution of medicinal products. Data exclusivity provisions are therefore just one part of the overall interrelationship between research, development and supply of medicinal products. They are an important instrument to help promote the development of new medicinal products and to ensure the availability of innovative medicinal products for patients. The inclusion of data exclusivity provisions in EU preferential trade agreements serves the purpose of the coherent application of existing provisions, legal certainty and the continued promotion of innovation for the benefit of patients.

Right to education (arts. 13–14)

Issue 24

130. Students who are citizens of a Member State of the European Union (EU) or of another contracting party to the Agreement on the European Economic Area (EEA) have been exempted from general tuition fees in all *Länder* since the 2014/2015 winter semester.

131. The secretariat of the Standing Conference of the Ministers of Education and Cultural Affairs of the *Länder* does not have any data on the number of students exempted from semester fees, long-term fees or fees for non-EU nationals.

132. Students who are not EU/EEA citizens must pay €1,500 per semester in Baden-Württemberg from the 2017/2018 winter semester onwards. Numerous exemptions from the payment of the obligatory fee in Baden-Württemberg serve the purpose of scientific exchange and/or the social acceptability of the law (cf. amendment to the Act on Land Higher Education Fees (*Landeshochschulgebührengesetz*) and other Acts of May 9, 2017, Sections 5–7). See Annex 15 for further information.

133. Student loans are offered by various providers. For example, 50% of the support provided to students under the Federal Training Assistance Act (*Bundesausbildungsförderungsgesetz*, or BAföG) is in the form of a loan. The loan is interest-free. Assistance under the BAföG system was granted to 583,567 students in 2016. See Annex 15 for further information.

Cultural rights (art. 15)

Issue 25

134. The Federal Government supports the culture and language of national minorities on the basis of the Framework Convention of the Council of Europe for the Protection of National Minorities and the European Charter for Regional or Minority Languages.

135. Furthermore, the culture of minority groups is also promoted by the *Länder*, being primarily responsible for this according to the division of responsibilities in the Federal Republic of Germany. This is done, for example, through the joint promotion of the Foundation for the Sorbian People by the Federal Government and the *Länder* of Brandenburg and Saxony, the promotion of Danish minority schools by *Land* Schleswig-Holstein and the promotion of the Low German language by the eight *Länder* in which it is spoken, and particularly by the *Länder* of Schleswig-Holstein, Bremen, Hamburg and Lower Saxony. Furthermore, the use of minority languages in dealings with local administrative authorities is also supported by specific measures, such as legal provisions at *Länder* level.

136. As part of the "Live Democracy" federal programme, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth promotes, inter alia, the independent programme area entitled "Living Together in a diverse Society". The increase in violence towards, and harassment of, refugees and active citizens underlines how important it is to give priority to the strengthening of democracy and peaceful co-existence in Germany as a country of immigration. The projects in this programme area aim to develop strategies and approaches that address racist and discriminatory actions and attitudes.

137. Since 2006, the Federal Government has been engaged in regular dialogue with Muslims living in Germany within the framework of the German Islam Conferences. The talks have focussed on areas such as the training of religious staff, language and society, and the integration and participation of Muslim migrants.

138. Finally, since mid-2011 the "Integration through Qualification" (IQ) funding programme has been supporting regional advisory centres across the country where migrants can also receive free advice on vocational qualifications they have acquired abroad or on opportunities for skills development in Germany. Further information are in Annex 16.